

RECEIVED
CENTRAL FAX CENTER

DOCKET NO. CM04695H

DEC 09 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S)	Zollner, et al.	GROUP ART UNIT:	2155
APPLN. NO.:	10/082,405	EXAMINER:	Philip B. Tran
FILED:	February 25, 2002	Confirmation No.	3930
TITLE:	OPTIMIZED DYNAMIC SYSTEM RESTART SEQUENCE FOR A WIDE AREA COMMUNICATION SYSTEM		

AFFIDAVIT OF MARK ZOLLNER
UNDER 37 CFR § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Mark P. Zollner, declare and state that:

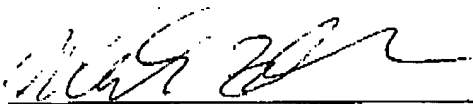
1. I am a citizen of the United States of America and a resident of Palatine, Illinois.
2. I hold a B.S. degree in Mathematics and Computer Science from University of Illinois at Chicago and a M.S. degree in Computer Science from Loyola University awarded in 1987 and 1992 respectively.
3. I have been employed as an Engineer by Motorola, Inc. since 1991 and am currently a Principal Staff Engineer working in the ASE group of Motorola, Inc. During my 14 years of experience, I have worked continually with communication technologies, including wireless systems.
4. I have reviewed U.S. Patents No. 5,659,881 (Kent) cited in U.S. Patent Office Action dated September 9, 2005.
5. I have reviewed the Specification, Claims, and Drawings of the Application Serial No. 10/082,405.
6. I have reviewed U.S. Patent Office Action dated September 9, 2005 in Application Serial No. 10/082,405 which contains the statement, "it would have been obvious to one of skilled in the art at the time of the invention was made to implement ruled-based criteria for call priority in different sites based on determination of event sequence for the calls, disclosed by Kent, into the

specific event of a system restart in order to establish an efficient restart sequence for different sites based on a predetermined rule-based priority sequence.”

That statement is incorrect. One skilled in the art would not apply the “ruled-based criteria for call priority in different sites based on determination of event sequence for the call, disclosed by Kent” into a system restart, which is what my invention entails. The reason that one skilled in the art would not apply the invention described in Kent to a system restart is that Kent addresses call priority in a call contention situation and for call contention to occur, an operational communications system is required, not a system restart. Kent does not and can not apply to the system restart situation. One skilled in the art would understand that system restart means that all the communication sites are not in service, mobility information is not updated, links are not established, etc, and in such a situation, there can be no call contention, which is what Kent requires. One skilled in the art would not take Kent’s disclosure and apply it to a system restart. The invention described in Kent is limited to call contention (which requires calls) which by nature is not system restart (which is characterized by the lack of calls).

This fundamental difference leads to the observation that there is no question of applying the “ruled-based criteria for call priority ... for the call, disclosed by Kent” into a system restart, which is what my invention entails. This observation is further buttressed by the fact that the Kent disclosure discusses call contention and never discusses the absence of calls, c.g. system restart. Thus, the limitation to “system restart” is missing from the Kent disclosure. Accordingly, the Kent reference does not teach one of ordinary skill in the art the limitations of the claims in Application Serial No. 10/082,405.

Respectfully submitted,



MARK ZOLLNER

DATE: 12-9-05